

REMARKS

I. Introduction

Claims 9-16 are currently pending. Claims 9, 10, and 11 have been amended. In view of the foregoing amendments and the following remarks, it is respectfully submitted that claims 9 to 16 are allowable, and reconsideration of these claims is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the acknowledgment that all certified copies of the priority documents have been received.

II. Rejection of Claims 11, and 13 to 16 Under 35 U.S.C. § 112, Second Paragraph

Claims 11, and 13 to 16 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 9, 10 and 11 have been amended to consistently recite “a first communication device,” “a second communication device” and “a third communication device.” Accordingly, there is no possibility of ambiguity, and the amended features clearly comply with the requirements under 35 U.S.C. § 112, second paragraph.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

III. Rejection of Claims 9 to 16 Under 35 U.S.C. § 102(b)

Claims 9 to 16 were rejected under 35 U.S.C. § 102(b) as anticipated by that which the Office Action characterized as the Admitted Prior Art, specifically Figure 4. Applicants respectfully submit that this rejection should be withdrawn, for the following reasons.

To anticipate a claim under § 102(b), a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged exactly as in the claim.

Lindeman, 703 F.2d 1458 (Emphasis added). Additionally, not only must each of the claim limitations be identically disclosed, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the inventions of the rejected claims, as discussed above. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Amended independent claim 9 recites the following:

9. A decentralized electrical braking system, comprising:
 - at least four sensors for sensing an actuation of a brake actuating device;
 - at least four wheel-braking modules, each wheel-braking module being assigned to a corresponding vehicle wheel and acquiring sensor data and controlling braking of the corresponding vehicle wheel;
 - at least one **first communication device connecting all four wheel-braking modules** to one another for exchange of data;
 - an electrical connecting device for connecting each sensor to at least one wheel-braking module; and
 - at least one of a **second communication device and a third communication device** for facilitating at least one of receiving and exchanging data between at least two wheel-braking modules associated with opposite lateral sides of the vehicle, **wherein the first, second and third communication devices are distinct.**

In support of the rejection, the Examiner contends that the Admitted Prior Art teaches the following: a) “at least one **first communication device or line shown below S3 and S4** connecting all four wheel-braking modules to one another via intervening elements for exchange of data”; b) “at least one **further communication device or one of elements 14**”; and c) with respect to claims 11, “Examiner notes that **the second and third communication devices are other elements 14** shown in figure 4 are by way of intervening elements.” To the extent the Examiner contends that “at least one **first communication device or line shown below S3 and S4**” is equivalent to the claimed “first communication device,” it is not

clear whether the Examiner is referring to line 12 or line 14. In any case, line 12 clearly cannot satisfy the claimed “first communication device” since **line 12 merely connects one sensor (either S3 or S4) to one wheel-braking module 10** (and there are no “intervening” elements that connect the four wheel-braking modules 10, other than the communication bus). Since the only connection “connecting all four wheel-braking modules to one another” in Fig. 4 is the communication bus 14, Applicants will assume the **Examiner is contending that bus line 14 of Fig. 4 is equivalent to the claimed “first communication device.”**

However, if one assumes that **bus line 14 of Fig. 4 is equivalent to the claimed “first communication device,”** then the Examiner’s remaining contention (i.e., “**the second and third communication devices are other elements 14** shown in figure 4”) simply do not make sense when applied against the present claimed invention. First, it is clearly that bus line 14 is a single element, so it is simply illogical to contend that different portions of the bus line 14 are separate “communication devices.” Furthermore, even if one assumed for the sake of argument that different portions of the bus line 14 could somehow be considered separate “communication devices” (which assumption is clearly false), since claim 9 clearly recites that “**the first, second and third communication devices are distinct,**” there is simply no way that different portions of the bus line 14 shown in Fig. 4 can possibly satisfy the claimed features of “at least one **first communication device connecting all four wheel-braking modules** to one another for exchange of data” and “**at least one of a second communication device and a third communication device** for facilitating at least one of receiving and exchanging **data between at least two wheel-braking modules associated with opposite lateral sides of the vehicle.**”

For at least the foregoing reasons, independent claim 9 and its dependent claims 10-16 are not anticipated by the Admitted Prior Art. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

Applicants respectfully submit that claims 9 to 16 of the present application under consideration are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

 (R. No. 36,197)

Dated: April 18, 2008

By: JONG LEE for Gerard Messina
Gerard A. Messina (Reg. No. 35,952)
KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO. 26646